

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7083 of 1997

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN

and

MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?
1 to 5 : NO
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COUNCIL FOR SOCIAL JUSTICE THROUGH VALJIBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner

MS. AMI YAGNIK, AGP, for Respondent No. 1

NOTICE UNSERVED for Respondent No. 4

NOTICE SERVED for Respondent No. 6

CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and

MR.JUSTICE A.R.DAVE

Date of decision: 05/05/98

C.A.V. JUDGMENT (Per : A.R. Dave, J.)

By way of public interest litigation, Council for

Social Justice, a registered organization which works for protection and promotion of basic and fundamental rights and interests of poor citizen has approached this Court with a prayer that a commission should be appointed to inquire into an incident dated 16.7.97 which had taken place at Amraiwadi when there was a clash between two different communities and some persons were given very brutal treatment by some police personnel.

2. Facts relating to the incident in question as stated by the petitioner are as under:-

3. A statue of late Dr. Baba Saheb Ambedkar was desecrated in Mumbai and therefore some riots had taken place in the state of Maharashtra and as a result thereof about 10 persons belonging to scheduled castes were killed. Repercussions of the said incident had taken place at several places in the country including Gujarat. One such incident had taken place at Amraiwadi in Ahmedabad on 16.7.97. A call of bandh was given in the State of Gujarat on 16.7.97 which was supported by several political parties. Due to clashes between mobs of two communities on 16.7.97 at Amraiwadi, the police personnel had broken open houses of several dalits and had entered their houses with guns, hockies and lathis. The dalits were abused and were brutally beaten by several policemen including Dy. Commissioner of Police Shri P.K. Jha, I.P.S., in a lockup room of Amraiwadi Police Station. Those who were arrested were segregated into two different groups and those who were dalits were given ill-treatment or beating. A representation was made by a Member of Parliament named Shri Rajubhai Parmar to the then Chief Minister of the State of Gujarat with regard to the atrocious actions of the policemen and in pursuance of the said representation, the Government had directed an inquiry to be made.

4. It is also alleged that the police personnel had shown scant respect to legal provisions by not producing arrested persons within 24 hours of arrest of accused. The petitioner thus wants the said incident to be looked into by the Court.

5. On the other hand, the learned Government Pleader has denied all the allegations levelled against the police personnel and has placed on record inquiry report submitted by Joint Commissioner of Police Shri K. Nityanandam alongwith an Affidavit-in-reply filed by Shri Keshav Kumar, Deputy Commissioner of Police, Ahmedabad City.

6. After hearing the learned advocates and upon perusal of the report and relevant records like station diary, wireless message book, etc. the following facts are evident. On account of desecration of statute of late Dr. Babasaheb Ambedkar in Bombay, a call was given in the State of Gujarat on 16.7.97 and on that day around 1330 hrs. a crowd of about 5000 dalits had attacked certain residents of Choksi-ni-chawl and Arya Samaji-ni-chawl in Amraiwadi. So as to bring the situation under control, the concerned police personnel had to burst tear gas shells, order lathi charge and had also to resort to firing. In view of the rioting which had taken place, several persons had been arrested. Criminal complaints were also filed against several persons. In all 110 persons had been arrested and out of the said persons, 67 belonged to dalit communities whereas 43 belonged to upper castes. Three offences were registered against the persons referred to hereinabove under the provisions of Sections 307, 143, 147, 148 etc. of the Indian Penal Code and under other Acts at Amraiwadi Police Station. Shri Govind Singhdeo and Shri Bhanji Sighdeo, two brothers, are the main accused in the said offences and they were arrested on 16-7-1997 in an offence registered at C.R No. 380 of 1997 at Amraiwadi Police Station. The said accused were also produced before the Magistrate within 24 hrs. of their arrest but no complaint was made with regard ill-treatment or beating by them before the Magistrate.

7. Prima facie, it appears that the allegations levelled by Shri Govindbhai and Shri Bhanjibhai with regard to beating are not supported by any independent evidence. It appears that several other persons were in the police lockup. Certain accused who were not even concerned with the above-referred to three complaints were also in the police lockup. They have not supported case of the petitioner or Shri Govindbhai and Bhanjibhi that D.C.P. Shri P.K. Jha or any other policeman had separated dalits from other upper caste accused and thereafter dalits were beaten up by Shri Jha or other policemen in the police lockup. Neither before the Magistrate nor before the concerned doctors, doctors of the jail and doctor of Civil hospital, the accused have complained about beating by police. There is no reference to serious bodily injuries in the certificates issued by the concerned doctors. One of the accused who had suffered injuries had stated that due to a fall he was injured. Physician of Civil Hospital has stated in his certificate dated 6/12-12-1997 that when the above named two accused were examined by the concerned doctors in July, 1997, they had complained about pain in stomach

and waist. Some abrasion were also found on their bodies but they do not appear to be of a very serious nature. Thus, allegations regarding beating by police do not have substance because such injuries could also have been inflicted in course of rioting, lathicharge and other incidents which had taken place on the day of incident.

8. It also appears that food, as per normal practice, was offered to all the accused at the time when they were supposed to get. Thus, allegations with regard to not giving food to dalits also do not appear to be true. From the record it also appears that lockup rooms at Amraiwadi police station are having toilets and therefore the allegation that the dalit accused had to answer call of nature in the police lockup room in presence of other accused is also not established.

9. With regard to non-presentation of the accused within 24 hrs. before the magistrate, it appears that the said allegation also does not appear to be true. Upon perusal of the record, it appears that a message was sent to the concerned police officer to see that the concerned accused should be produced before the magistrate within 24 hrs. and in fact they had been taken to the magistrate within 24 hrs.

10. The allegation with regard to use of abusive language and ill-treatment given to female members of dalit community do not find support from any corner. No complaint has been filed even after the alleged incident in question had taken place. The statements giving support to use of abusive language etc. are made only by dalit family members and as per facts stated in the report, there is no substance in the said statements.

11. There is substance in the findings arrived at in the report to the effect that the entire area of Amraiwadi and other areas under the control of D.C.P. Shri P.K. Jha was terribly disturbed. The police had to burst tear gas shells and had to resort to lathi charge and firing. At such a time normally an officer in the cadre of D.C.P. who is in charge of several police stations would not spend his time in police lockup beating members of a selected community. We are inclined to accept finding of Jt. Commissioner of Police Shri Nityanandam that wild allegations were levelled against the police personnel for the reason that Govindbhai and Bhanjibhai are the main accused in offence registered at Amraiwadi Police Station. It also appears that the said persons were arrested from the place where rioting had taken place and they were not dragged from their house as

alleged by the petitioners. So as to see that the police personnel are put to difficulties and to bring their morale down, wild allegations appear to have been levelled by them or at their instance in this petition.

13. In view of the facts stated hereinabove, we are not inclined to interfere in the matter especially when three criminal cases referred to hereinabove are pending. We are sure that correct facts shall be brought out at the time of trial and in our opinion, making any observation with regard to the incident in question, at this stage would not be in the interest of the prosecution or the accused. The observations made hereinabove are only *prima facie* observations and we do not want the trial court to consider the same in the course of criminal trial.

14. In the circumstances, this petition is rejected.

{K. Sreedharan, CJ.}

{A.R Dave, J.}

Prakash/Hn*